

***IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York***

**MARCH 2022 GRAND JURY
(Impaneled March 25, 2022)**

THE UNITED STATES OF AMERICA

INDICTMENT

-vs-

PAYTON GENDRON

Violations:

Title 18, United States Code, Sections
249(a)(1), 924(c)(1)(A), and 924(j)(1)

(27 Counts and Forfeiture Allegation)

INTRODUCTION

The Grand Jury Charges:

1. On or about May 14, 2022, the defendant, **PAYTON GENDRON**, an eighteen-year-old white male, drove to the Tops grocery store located at 1275 Jefferson Avenue, Buffalo, New York 14208 (Tops).

2. When the defendant, **PAYTON GENDRON**, arrived at Tops, he got out of his car wearing a tactical-style helmet, camouflage clothing, body armor, and a GoPro video camera, and carrying a loaded Bushmaster XM-15 .223 caliber rifle and multiple loaded magazines.

3. The defendant, **PAYTON GENDRON**, shot four Black people in front of Tops, killing Roberta Drury, Pearl Young, and Heyward Patterson, and injuring Z.G., a person whose identity is known to the Grand Jury.

4. The defendant, **PAYTON GENDRON**, entered Tops and shot multiple people, killing seven more Black people: Ruth Whitfield, Celestine Chaney, Aaron W. Salter, Jr., Andre Mackniel, Margus Morrison, Katherine Massey, and Geraldine Talley; and injuring two white people: C.B., and J.W., persons whose identities are known to the Grand Jury.

COUNTS 1-10

(Hate Crime Act Resulting in Death)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction are hereby incorporated as to Counts One through Ten of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, willfully caused bodily injury to the below-listed victims because of their actual and perceived race and color:

COUNT	VICTIM
1	Roberta Drury
2	Pearl Young
3	Heyward Patterson
4	Ruth Whitfield
5	Celestine Chaney
6	Aaron W. Salter, Jr.
7	Andre Mackniel
8	Margus Morrison
9	Katherine Massey
10	Geraldine Talley

The offenses resulted in the death of each of the victims identified in Counts One through Ten.

All in violation of Title 18, United States Code, Section 249(a)(1)(B)(i).

COUNTS 11-20

(Discharge of a Firearm to Commit Murder)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction, and Counts One through Ten, are hereby incorporated as to Counts Eleven through Twenty of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, knowingly used, carried, and discharged a firearm during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, a violation of Title 18, United States Code, Section 249, as charged in Counts One through Ten, and in the course of the violation caused the death of each victim listed below through the use of a firearm in such a manner as to constitute murder as defined in Title 18, United States Code, Section 1111, in that the defendant, **PAYTON GENDRON**, with malice aforethought, did unlawfully kill each victim listed below with a firearm:

COUNT	VICTIM
11	Roberta Drury
12	Pearl Young
13	Heyward Patterson
14	Ruth Whitfield
15	Celestine Chaney
16	Aaron W. Salter, Jr.
17	Andre Mackniel
18	Margus Morrison
19	Katherine Massey
20	Geraldine Talley

All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(iii), and 924(j)(1).

COUNT 21

(Hate Crime Act Involving An Attempt to Kill)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction are hereby incorporated as to Count Twenty-One of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, willfully caused bodily injury to Z.G., and through the use of a firearm attempted to cause bodily injury to Z.G., because of his actual and perceived race and color. This offense included an attempt to kill Z.G.

All in violation of Title 18, United States Code, Section 249(a)(1)(B)(ii).

COUNTS 22-23

(Hate Crime Act Involving An Attempt to Kill)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction are hereby incorporated as to Counts Twenty-Two through Twenty-Three of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, willfully caused bodily injury to the below-listed victims, and through the use of a firearm attempted to cause bodily injury to the below-listed victims, because of the actual and perceived race and color of any person, to wit, Black people:

COUNT	VICTIM
22	C.B.
23	J.W.

The offenses included an attempt to kill Black people.

All in violation of Title 18, United States Code, Section 249(a)(1)(B)(ii).

COUNTS 24-26

(Use and Discharge of a Firearm During and in Relation to a Crime of Violence)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction, and Counts Twenty-One through Twenty-Three, are hereby incorporated as to Counts Twenty-Four through Twenty-Six of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, knowingly used, carried, and discharged a firearm during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, that is, a violation of Title 18, United States Code, Section 249, as charged in Counts Twenty-One through Twenty-Three with respect to each victim listed below:

COUNT	VICTIM
24	Z.G.
25	C.B.
26	J.W.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 924(c)(1)(A)(iii).

COUNT 27

(Hate Crime Act Involving An Attempt to Kill)

The Grand Jury Further Charges:

Paragraphs One through Four of the Introduction are hereby incorporated as to Count Twenty-Seven of the Indictment.

On or about May 14, 2022, in the Western District of New York, the defendant, **PAYTON GENDRON**, through the use of a firearm attempted to cause bodily injury to Black people, other than the victims identified in Counts One through Ten and Twenty-One, in and around the Tops grocery store, located at 1275 Jefferson Avenue, Buffalo, New York 14208, because of their actual and perceived race and color. The offense included an attempt to kill Black people in and around Tops.

All in violation of Title 18, United States Code, Section 249(a)(1)(B)(ii).

FORFEITURE ALLEGATION

The Grand Jury Alleges:

Upon conviction of one or more of the offenses set forth in Counts Eleven through Twenty, and Twenty-Four through Twenty-Six of this Indictment, the defendant, **PAYTON GENDRON**, shall forfeit his right, title, and interest to the United States of any firearms, magazines, and ammunition involved and used in the commission of the offense, or found in his possession or under his immediate control, including, but not limited to:

- a. One (1) Bushmaster XM-15 .223 caliber rifle, bearing serial number L096458, with one loaded cartridge, seized by law enforcement on or about May 14, 2022, from 1275 Jefferson Avenue, Buffalo, New York;
- b. One (1) New Mossberg 500 Persuader Retrograde 12 gauge loaded shotgun, bearing serial number V1387287, seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- c. One (1) Savage Arms, Inc., Axis XP loaded bolt-action rifle, bearing serial number N331760, seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- d. Three (3) loaded firearm magazines seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- e. Sixteen (16) rounds of 30-06 SPRG Federal Premium ammunition in a box seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- f. Four (4) boxes containing rounds of ammunition seized by law enforcement on or about May 14, 2022, from 81 Stillwater Road, Conklin, New York;
- g. One (1) round of 223 REM ammunition seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;

- h. Twenty (20) rounds of 12 gauge Federal ammunition buckshot in a box seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- i. Ten (10) rounds of ammunition on clip seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- j. Plastic bag containing five (5) rounds of ammunition seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- k. Sling and ammunition accessories seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- l. One (1) green ammunition box containing rounds of ammunition seized by law enforcement on or about May 14, 2022, from 81 Stillwater Road, Conklin, New York;
- m. Ammunition boxes/medical supplies seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- n. Speed loader for M4 magazine seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- o. Ammunition clip seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- p. Black Protector Series Gun Case Model 1501 seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- q. Firearm accessories seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- r. Green magazine pouch seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;
- s. Plastic bucket containing shotgun shells (236 total) seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- t. Okay Industries Inc. Magazine Cartridge seized by law enforcement from a Ford Taurus, bearing VIN 1FAFP53203A192590;

- u. One (1) Mossberg Box with Label 50429 (12 gauge, Model 500, Persuader, Pump, BBL1 18.5" CB Bead Sight, Walnut Stock and Corncob Forearm) seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- v. Stripper clip seized by law enforcement from 14 Amber Hill Road, Conklin, New York;
- w. Two (2) high-capacity rifle magazines; and
- x. 223 caliber cartridges.

All pursuant to Title 18, United States Code, Sections 924(d) and 3665 and Title 28, United States Code, Section 2461(c).

**NOTICE OF SPECIAL FINDINGS PURSUANT TO TITLE 18, UNITED STATES
CODE, SECTIONS 3591 AND 3592
(Counts 11-20)**

The Grand Jury Further Finds:

1. The allegations of Counts Eleven through Twenty of this Indictment are realleged and incorporated by reference as though set forth fully herein.

2. As to Counts Eleven through Twenty of this Indictment, the defendant,

PAYTON GENDRON:

- a. was 18 years of age or older at the time of the offenses (Title 18, United States Code, Section 3591(a));
- b. intentionally killed victims Roberta Drury, Pearl Young, Heyward Patterson, Ruth Whitfield, Celestine Chaney, Aaron W. Salter, Jr., Andre Mackniel, Margus Morrison, Katherine Massey, and Geraldine Talley (Title 18, United States Code, Section 3591(a)(2)(A));

- c. intentionally inflicted serious bodily injury that resulted in deaths of victims Roberta Drury, Pearl Young, Heyward Patterson, Ruth Whitfield, Celestine Chaney, Aaron W. Salter, Jr., Andre Mackniel, Margus Morrison, Katherine Massey, and Geraldine Talley (Title 18, United States Code, Section 3591(a)(2)(B));
- d. intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than the participant in the offenses, and victims Roberta Drury, Pearl Young, Heyward Patterson, Ruth Whitfield, Celestine Chaney, Aaron W. Salter, Jr., Andre Mackniel, Margus Morrison, Katherine Massey, and Geraldine Talley died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(C));
- e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than the participant in the offenses, such that participation in the act constituted a reckless disregard for human life and victims Roberta Drury, Pearl Young, Heyward Patterson, Ruth Whitfield, Celestine Chaney, Aaron W. Salter, Jr., Andre Mackniel, Margus Morrison, Katherine Massey, and Geraldine Talley died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(D));
- f. in the commission of the offenses, knowingly created a grave risk of death to one or more other persons in addition to the victims of the offenses (Title 18, United States Code, Section 3592(c)(5));
- g. committed the offenses after substantial planning and premeditation to cause the death of a person (Title 18, United States Code, Section 3592(c)(9));
- h. committed the offense after substantial planning and premeditation to commit an act of terrorism (Title 18, United States Code, Section 3592(c)(9));
- i. committed the offenses charged in Counts Twelve (for killing Pearl Young, who was 77 years old), Thirteen (for killing Heyward Patterson, who was 67 years old), Fourteen (for killing Ruth Whitfield, who was 86 years old), Fifteen (for killing Celestine Chaney, who was 65 years old), and Nineteen (for killing Katherine Massey who was 72 years old), against victims who were particularly vulnerable due to old age and infirmity (Title 18, United States Code, Section 3592(c)(11)); and

- j. intentionally killed and attempted to kill more than one person in a single criminal episode (Title 18, United States Code, Section 3592(c)(16)).

DATED: Buffalo, New York, July 14, 2022.

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A TRUE BILL:

S/ FOREPERSON
FOREPERSON